

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

THE HOLMES GROUP, INC.,	:	
	:	
Plaintiff,	:	Civil Action No. 05-CV-11367 REK
v.	:	(Alexander, M.J.)
	:	
WEST BEND HOUSEWARES, LLC and	:	
FOCUS PRODUCTS GROUP, L.L.C.,	:	
	:	
Defendants.	:	

**PROPOSED JOINT CASE SCHEDULE**

Pursuant to the Court's Order dated November 8, 2005, and Local Rule 16.1, The Holmes Group, Inc. ("Holmes") and West Bend Housewares, LLC and Focus Products Group, L.L.C. (collectively "West Bend") respectfully submit the following proposed joint case schedule. The case was originally filed on June 28, 2005 and involves accused infringement of two (2) utility patents owned by Holmes and West Bend has counterclaimed asserting infringement of three (3) design patents. All of the patents involved in the suit are related to slow cooker appliances.

**1. Certification of Conference.**

Pursuant to Fed. R. Civ. P. 26(f), teleconferences were conducted by lead counsel for the designated parties in the above-captioned case to discuss the proposed joint case schedule. Counsel were able to reach agreement on most issues but could not reach agreement with respect to the scheduling of a *Markman* hearing and associated briefing. Specifically, Holmes proposes that the Court conduct a *Markman* hearing to construe the claims at issue. Upon a ruling by the Court

regarding claim construction, Holmes proposes a time period for the filing of dispositive motions. West Bend proposes that any *Markman* issues be addressed simultaneously with dispositive motions. Accordingly, each party presents its proposal with respect to those issues as set forth below.

**2. Pre-Discovery Disclosures.**

The information required by Fed. R. Civ. P. 26(a)(1) will be exchanged by January 27, 2006.

**3. Amendments/Supplements to Pleadings.**

Amendments and/or supplements to the pleadings may be filed as a matter of right by January 31, 2006 subject to the provisions of the Federal Rules of Civil Procedure, with subsequent amendments and/or pleadings subject to leave of Court prior to filing.

**4. Discovery Plan**

The parties jointly propose the following discovery plan:

- a) All fact discovery including fact depositions shall be completed by December 31, 2006.
- b) Discovery Limits:
  - 1) Maximum of 20 interrogatories by each party to any other party.
  - 2) Maximum of 40 requests for admission by each party to any other party, except for admissions related to admissibility of documents.

- 3) Maximum of 15 depositions by each party.
- c) Identification of experts due by October 15, 2006; objections to any expert due by October 30, 2006.
- d) Reports from retained experts under Rule 26(a)(2) will be due from the party bearing the burden on a particular issue by December 15, 2006 with rebuttal reports due by January 31, 2007. All expert depositions to be completed by February 28, 2007.

### **Holmes Proposal**

Following close of expert discovery, Holmes proposes the following:

- e) Parties to confer in an effort to narrow claim construction issues by March 16, 2007.
- f) Parties to file opening memoranda regarding claim construction by April 13, 2007.
- g) Parties to file opposing memoranda regarding claim construction by April 27, 2007.
- h) Holmes requests that the Court schedule a *Markman* Hearing to determine the meaning of the patent claims and issue an order construing the claims. Holmes proposes that the *Markman* Hearing be scheduled for May 15, 2007. Holmes expects the *Markman* Hearing to take 2-3 days.
- i) All pretrial and dispositive motions should be filed within 90 days of the Court's ruling on claim construction; Responsive Briefs are due 30 days

after filing of pretrial and dispositive motions; and Reply Briefs are due 14 days after filing of Responsive Briefs.

**West Bend Proposal**

Following close of expert discovery, West Bend proposes the following:

- e) All dispositive motions and *Markman* briefs shall be filed by April 13, 2007. Responsive Briefs are due thirty (30) days after filing; and Reply Briefs are due fourteen (14) days after filing of Responsive Briefs.

**5. Mediation**

The parties believe that settlement may be enhanced by use of a judicial settlement conference at the appropriate time.

**6. Pretrial Matters.**

- a) Final lists of witnesses and exhibits shall be served pursuant to Rule 26(a)(3).
- b) A final pretrial conference will be held on \_\_\_\_\_ to be notified by the Court, and must be attended by trial counsel. Counsel shall be prepared to commence trial as of \_\_\_\_\_.
- c) If the case is ultimately tried, the parties expect the trial to take approximately 8-10 days.

**7. Protective Order.**

The parties agree that a Protective Order will be prepared and filed with the Court.

**8. Certifications Signed by Counsel and Clients.**

The required certifications pursuant to Local Rule 16.1(d)(3) are attached hereto as Exhibit "A."

Respectfully submitted,

Dated: January 4, 2006

Dated: January 4, 2006

/s/ Glenn T. Henneberger

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# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

THE HOLMES GROUP, INC.

Plaintiffs,

v.

WEST BEND HOUSEWARES, LLC and  
FOCUS PRODUCTS GROUP, LLC

Defendants.

No. 05-CV-11367-REK  
(Alexander, M.J.)

**DEFENDANTS' CERTIFICATION PURSUANT TO LOCAL RULE 16.1**

The undersigned certify that West Bend Housewares, LLC, and Focus Products Group, LLC, and their trial counsel, have conferred with a view to establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation, and to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

/s/ Keith Jaffee

Keith Jaffee  
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Dated: January 3, 2006

/s/ Mike Carpenter

Mike Carpenter  
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Dated: January 3, 2006

Counsel for  
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FOCUS PRODUCTS GROUP, LLC

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Dated: January 4, 2006



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Plaintiff,	:	Civil Action No. 05-CV-11367 REK
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WEST BEND HOUSEWARES, LLC and	:	
FOCUS PRODUCTS GROUP, L.L.C.,	:	
	:	
Defendants.	:	

**LOCAL RULE 16.1(d)(3) CERTIFICATION**

Plaintiff, The Holmes Group, Inc. ("HOLMES") and its counsel hereby certify pursuant to Local Rule 16.1(d)(3) that Holmes and its counsel and counsel for Holmes and counsel for Defendants, West Bend Housewares, LLC and Focus Products Group, L.L.C. ("WEST BEND") have conferred:

- (a) with a view to establishing a budget for the costs of conducting the full course -- and various alternative courses -- of the litigation; and
- (b) considered the resolution of the litigation through the use of alternative dispute resolution programs such as that outlined in Local Rule 16.4.

Respectfully submitted,

Dated: January 4, 2006

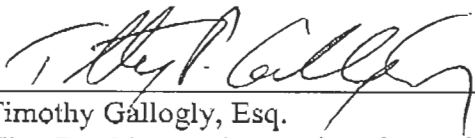
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and

Dated: January 4, 2006

  
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